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STATE FARM MUTUAL AUTOMOBILE
7 INSURANCE COMPANY

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 GREGORY BUONOCORE, an individual on
behalf of himself and all others similarly
12 situated,

13 Plaintiff,

14 v.

15 STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY; and DOES 1
16 through 10 inclusive,

17 Defendants.

CASE NO. CV 08 0184 PJH

[PROPOSED] ORDER GRANTING ON
LIMITED GROUNDS STATE FARM'S
MOTION FOR JUDGMENT ON THE
PLEADINGS

JUDGE: Hon. Phyllis J. Hamilton

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19 Defendant State Farm Mutual Automobile Insurance Company's motion for judgment on
20 the pleadings for plaintiff Buonocore's failure to state a claim pursuant to Federal Rule of Civil
21 Procedure 12(c) came on regularly for hearing before this Court on September 3, 2008 at 9:00
22 a.m. in Courtroom 3, the Honorable Phyllis J. Hamilton presiding. All parties appeared through
23 counsel. After full consideration of the parties' papers, the declarations and the evidence
24 submitted, and the oral argument of counsel, this Court orders as follows:

25 IT IS HEREBY ORDERED that:

26 (1) Under the terms of the automobile insurance policy State Farm issued to plaintiff
27 Gregory Buonocore, State Farm is not required to pay twice the \$25,000 in medical payments it
28 has previously paid to Buonocore under Coverage C of the policy, and is therefore entitled to

1 withhold \$25,000 from any underinsured motorist arbitration award that may be awarded to
2 Buonocore under Coverage U of the policy so that State Farm is not paying the medical bills
3 twice.

4 (2) The parties shall complete the arbitration of Buonocore's underinsured motorist
5 claim and shall inform the Court immediately when arbitration is completed. This case is stayed
6 pending completion of arbitration.

7 (3) The case management conference currently set for September 4, 2008 is vacated
8 and will be reset once the Court is notified that arbitration has been completed.

9 (4) No amendment of the Complaint will be permitted at this time. State Farm's
10 request that Buonocore's First Amended Complaint (Docket No. 35) be stricken is GRANTED.
11 Buonocore's Motion to Amend the Complaint (Docket No. 32) is administratively terminated.

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13 DATED: September ___, 2008

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15 HONORABLE PHYLLIS J. HAMILTON
16 UNITED STATES DISTRICT JUDGE
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